

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

**DEFENDANT'S MOTION TO DISMISS**

The United States of America, through its counsel, Attorney Michael J. Sullivan, United States Attorney for the District of Massachusetts, herein moves this Court to dismiss the Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for lack of subject matter jurisdiction. For the reasons set forth in the accompanying Memorandum of Law, defendant United States respectfully requests the Court to dismiss the Complaint of Plaintiff Daniel E. Lafreniere with prejudice for the following reasons:

- (1) Under Rule 12(b)(1), Fed. R. Civ. P., for lack of subject matter jurisdiction because plaintiff failed to comply with the applicable statute of limitations; and
- (2) Under Rule 12(b)(1), Fed. R. Civ. P., for lack of subject matter jurisdiction because this Court does not have subject matter jurisdiction over plaintiff's bailment claim.

WHEREFORE, based upon the arguments and authorities submitted in the accompanying Memorandum of Law, Defendant respectfully request this Court to dismiss Plaintiff's Complaint.

For the Defendant,

MICHAEL J. SULLIVAN,  
United States Attorney

/s/Rayford A. Farquhar  
RAYFORD A. FARQUHAR  
Assistant U.S. Attorney  
1 Courthouse, Suite 9200  
Boston, MA 02210  
(617) 748-3100

**CERTIFICATE OF SERVICE**

Suffolk, ss.

Boston, Massachusetts  
March 18, 2005

I, Rayford A. Farquhar, Assistant U.S. Attorney, do hereby certify that I have served a copy of the foregoing upon plaintiff's counsel of record, Daniel E. Lafreniere, Reg. No. 90333-038, Federal Medical Center Devens, P.O. Box 879 Camp, Ayer, MA 01432.

/s/Rayford A. Farquhar  
Rayford A. Farquhar  
Assistant U.S. Attorney

**LOCAL 7.1 CERTIFICATION**

I, Rayford A. Farquhar, hereby certify that I was unable to contact the pro se plaintiff prior to filing this Motion to Dismiss.

/s/Rayford A. Farquhar  
Rayford A. Farquhar  
Assistant U.S. Attorney